

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 739

Introduced by Senator Ducheny
(Coauthor: Senator Chesbro)

February 21, 2003

An act to add ~~Section 10553.3 to~~ and repeal Section 10553.3 of the Welfare and Institutions Code, relating to tribal health.

LEGISLATIVE COUNSEL'S DIGEST

SB 739, as amended, Ducheny. Children's services: Indian tribes.

Existing law requires each county to provide child welfare services. Existing law also requires each county to provide payments on behalf of eligible children in foster care pursuant to the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program. Both the provision of child welfare services programs and the AFDC-FC program are subject to regulations adopted by the State Department of Social Services.

Existing law authorizes the Director of Social Services, in accordance with federal law, to enter into agreements with Indian tribes to delegate to the Indian tribe county responsibilities for either or both the provision of child welfare services and the provision of payments pursuant to the AFDC-FC program.

This bill would, *until January 1, 2009*, authorize the director to *establish a 5-year pilot project to explore the feasibility of permitting tribal communities to provide child welfare services to a broad population of Indian children and families within tribal communities.*

This bill would authorize, pursuant to the pilot project, Indian tribes to enter into agreements with ~~Indian tribes~~ the director, pursuant to in accordance with provisions of existing law, to provide child welfare services, assistance payments under the AFDC-FC program, or both, to a target population of Indian children, as defined, ~~within tribal communities~~, and would authorize the ~~director~~ Indian tribes to receive federal and state financial reimbursement for those ~~activities~~ services.

This bill would require child welfare services allocation methodologies for these contracts to be developed in consultation with, and agreed to by, the department, the affected counties, and the affected Indian tribe.

This bill would also provide that implementation of agreements pursuant to its provisions that would delegate ~~to a county responsibility~~ responsibilities for child welfare services or assistance payments shall not be construed to impose liability on, or to require indemnification by, the participating county or the state for any act performed by an officer, agent, or employee of the participating tribe.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to enact
2 legislation to establish a five-year project to determine the
3 feasibility of allowing tribal communities to provide child welfare
4 services to a broad population of Indian children within tribal
5 communities.

6 SEC. 2. Section 10553.3 is added to the Welfare and
7 Institutions Code, to read:

8 10553.3. (a) ~~Notwithstanding~~ *The director may establish a*
9 *five-year pilot project to explore the feasibility of permitting tribal*
10 *communities to provide child welfare services to a broad*
11 *population of Indian children and families within tribal*
12 *communities.*

13 (b) *In implementing subdivision (a) and notwithstanding any*
14 *other provision of law, the director may enter into agreements with*
15 *Indian tribes, pursuant to Section 10553.1, to provide child*
16 *welfare services, assistance payments under the AFDC-FC*
17 *program, or both, to Indian children within tribal communities;*

1 ~~and may receive federal and state financial reimbursement for~~
2 ~~those activities.~~

3 ~~(b) For purposes of this section, “Indian” shall have the same~~
4 ~~meaning as defined that utilize the definition of “Indian” used in~~
5 ~~Section 1603(c) or 1679(b) of Title 25 of the United States Code.~~

6 (c) *An Indian tribe may enter into an agreement with the*
7 *director, pursuant to Section 10553.1, to provide child welfare*
8 *services or assistance payments under the AFDC-FC program, or*
9 *both, to the target population of children as defined for purposes*
10 *of the pilot program described in subdivision (a), and may receive*
11 *federal and state financial reimbursement for those services.*

12 (d) An agreement entered into pursuant to this section shall be
13 governed by Section 10553.2, as added by Section 5 of Chapter
14 724 of the Statutes of 1995, and as subsequently amended.
15 Approval of the child welfare services allocation methodology
16 required pursuant to Section 10553.2 shall be based on a clear
17 delineation of the respective responsibilities of the tribe and the
18 affected counties.

19 ~~(d)~~

20 (e) Implementation of *the director’s* agreements pursuant to
21 this section ~~that would with Indian tribes to delegate to a county~~
22 ~~responsibility~~ *county responsibilities* for child welfare services or
23 assistance payments shall not be construed to impose liability on,
24 or to require indemnification by, the participating county or the
25 state for any act performed by an ~~officer~~ *officer, agent, or employee*
26 of the participating tribe.

27 (f) *This section shall remain effective only until January 1,*
28 *2009, and as of that date is repealed, unless a later enacted statute,*
29 *that is enacted before January 1, 2009, deletes or extends that date.*